

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**LULA WILLIAMS, *et al.*,** )  
 )  
 **Plaintiffs,** )  
 **v.** ) **Civil Action No. 3:17-cv-461 (REP)**  
 )  
 **BIG PICTURE LOANS, LLC, *et al.*,** )  
 )  
 **Defendants.** )  
 )

RENEE GALLOWAY, *et al.*, )  
 )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 3:18-cv-406 (REP)  
 )  
 )  
 BIG PICTURE LOANS, LLC, *et al.*, )  
 )  
 )  
 Defendants. )  
 )

## **MEMORANDUM IN SUPPORT OF MOTION TO SEAL**

Plaintiffs, by counsel, pursuant to Rule 5 of the Local Rules of the United States District Court for the Eastern District of Virginia, move to seal portions of their Statement of Position Regarding Loan Criteria.

To present necessary information in support of their statement of position, Plaintiffs needed to cite exhibits containing financial information designated as confidential by Martorello. Generally, there is a First Amendment and common law qualified public right of access to judicial proceedings, including the records of all such proceedings. *Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 606–07 (1982); *Nixon v. Warner Comm’ns Inc.*, 435 U.S. 589, 597 (1978). Non-discovery motions are presumed to be records of judicial proceedings to which the right of access attaches unless there is a compelling confidentiality interest. *Id.* If the interest in preserving

confidentiality is compelling, the remedy must be narrowly tailored. *Id.* The judicial officer may deny access when sealing is “essential to preserve higher values and is narrowly tailored to serve that interest.” *Baltimore Sun Co. v. Goetz*, 886 F.2d 60, 65–66 (4th Cir. 1989).

One exception to the public’s right of access is where such access to judicial records could provide a “source[ ] of business information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 498. Courts, including the Fourth Circuit, have recognized an exception to the public’s right of access when a case involves trade secrets. *Woven Elecs. Corp. v. Advance Grp., Inc.*, 930 F.2d 913 (4th Cir. 1991) (citing *Valley Broadcasting v. United States District Court*, 798 F.2d 1289, 1294 (9th Cir. 1986); *In re Iowa Freedom of Information Council*, 724 F.2d 658 (8th Cir. 1983); *Brown & Williamson Tobacco Co. v. FTC*, 710 F.2d 1165, 1180 (6th Cir. 1983)).

In accordance with the Local Rules, Plaintiffs provide the following description of the documents: Exhibit 7 is a spreadsheet showing the distributions between Martorello and tribal entities; Ex. 8 is interrogatory responses from Martorello regarding the financial benefits received from his involvement in the tribal lending enterprise; and Ex. 10 is distributions to Eventide’s shareholders. Under the circumstances of this case—and when considering what has already been publicly filed including in Eventide’s bankruptcy (see Ex. 9)—Plaintiffs believe the remaining documents should be unsealed as they are not confidential, proprietary or a trade secret. Because they have been marked as confidential, however, Plaintiffs file this motion to seal.

Respectfully submitted,  
**PLAINTIFFS**

By:       /s/ Kristi C. Kelly        
Kristi C. Kelly, Esq., VSB #72791  
Andrew J. Guzzo, Esq., VSB #82170  
KELLY GUZZO, PLC  
3925 Chain Bridge Road, Suite 202  
Fairfax, VA 22030  
(703) 424-7572

(703) 591-0167 Facsimile

Email: [kkelly@kellyguzzo.com](mailto:kkelly@kellyguzzo.com)

Email: [aguzzo@kellyguzzo.com](mailto:aguzzo@kellyguzzo.com)

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29th day of July 2020, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system which will send a notification of such filing (NEF) to all counsel of record.

/s/  
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Kristi Cahoon Kelly (VSB# 72791)  
KELLY GUZZO, PLC  
3925 Chain Bridge Rd, Suite 202  
Fairfax, VA 22030  
(703) 424-7572 – Telephone  
(703) 591-0167 – Facsimile  
Email: [kkelly@kellyguzzo.com](mailto:kkelly@kellyguzzo.com)  
*Counsel for Plaintiffs*